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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,115	12/06/2000	M. Scott Reichardt	UV-174	9203
7590	10/19/2005		EXAMINER	
Richard M. Feustel, Jr. FISH & NEAVE 1251 Avenue of the Americas New York, NY 10020-1104			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/731,115	REICHARDT ET AL.	
	<b>Examiner</b> Son P. Huynh	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 July 2005.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8, 18-36, 46-64 and 74-84 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-8, 18-36, 46-64 and 74-84 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 06 December 2000 is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

    1. Certified copies of the priority documents have been received.

    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 07/25/2005 have been fully considered but they are not persuasive.

Applicant argues regarding claims 1-8, 29-36, 57-64 as amended, that the claimed invention patentably improves upon Alexander by "providing a branded selectable option having a product brand logo graphic of a provider of the passive video product within an interactive application display" (page 21, paragraph 2, lines 1-6). This argument is respectfully traversed.

Alexander discloses an interactive program guide screen for displaying multiple icons (title/ad panel) of providers such as providers for CBS, ESPN, FOX, etc. (figure 5). Alexander further discloses the Panel ads may contain graphics. Channel ad graphics will typically, but not necessarily, be limited to the channel logo portion of the ad (col. 24, lines 41-52). Thus, the claimed feature of "providing a branded selectable option having a product brand logo graphic of a provider of the passive video product within an interactive application display" is broadly met by providing selectable option (interactive icon) having a graphic logo of the provider such as CBS, FOX, etc. of the video/advertisement within the interactive program guide screen 10 (figures 1, 5).

Applicant argues regarding claims 18-24, 46-52, 74-80 that independent claims 18, 46 and 74, as amended, are patentable over Alexander because the claimed invention patentably improves upon Alexander by 1) displaying on the user equipment an alert icon overlaid on the currently displayed branded passive programming that indicates availability of additional information associated with the currently displayed branded passive programming, and 2) providing, in response to user selection of the alert icon, an interactive display on the user equipment that includes an advertisement associated with the brand of the currently displayed branded passive program" (bridge paragraph between page 22 and page 23). This argument is respectfully traversed.

Alexander discloses displaying on the user television equipment (user display screen) on screen notifications overlaid on the program currently displayed on the screen, on screen notifications can be used to alert the viewer to any number of possible items of information (col. 14, line 47-col. 15, line 32). Alexander further discloses while watching the news program, the news broadcaster describes an event involving astronauts. The viewer selects the news guide/data service icon and connects to a web site on the Internet describing, among other things, additional information about the particular event involving the astronauts (col. 18, lines 33-67). Alexander further discloses a translucent overlay of the window 12 can display the title, channel, etc. over the television program so the viewer can still see the entire image (col. 3, lines 55-62). Inherently, the on screen notification/icon/title, channel, etc. is associated with the program being viewed

(either directly or via user profile). Therefore, the claimed feature of "displaying on the user equipment an alert icon overlaid on the currently displayed branded passive programming that indicates availability of additional information associated with the currently displayed branded passive programming" is broadly met by displaying on the user display screen an on screen notification/icon/title/channel, etc. overlaid the program being viewed that indicates any number of possible items of information associated with the program being viewed; and the claimed feature of "providing, in response to user selection of the alert icon, an interactive display on the user equipment that includes an advertisement associated with the brand of the currently displayed branded passive program" is broadly met by providing, in response to user selection of on screen notifications/icon/channel, etc., an interactive display (i.e. web page) on the user equipment that includes an advertisement such as video clip, information about the program, event, etc. (col. 17, lines 48-67; col. 18, lines 33-67) associated with the program currently displayed.

For reasons give above, rejections on claims 1-8, 18-36, 46-64, 74-84 are analyzed as discussed below.

Claims 9-17, 37-45, 65-73 have been canceled.

***Claim Objections***

2. Claims 75-80 are objected to because of the following informalities:

Claims 75-80 depend on canceled claim 73. Examiner interprets these claims depend on claim 74. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 18-36, 46-64, 74-84 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander et al. (US 6,177,931).

Regarding claim 1, Alexander teaches a method for providing access to a passive video product (television program or advertised product) from an interactive application (interactive program guide on screen 10 – figure 1), comprising: providing a branded selectable option having a product brand logo graphic of a provider of the passive video product (interactive ads windows 14,16 or interactive icons on the Grid guide 22 having logo graphic of a provider such as FOX, CBS, etc. figure 5, col.

24, lines 45-55; col. 13, lines 50-55) within an interactive application display (within interactive program guide - figure 1); providing the passive video product from the provider in response to a user selecting the option from the interactive application display is met by providing television program from the provider such as advertiser, CBS provider, FOX provider, etc. in response to a viewer selecting an icon from the interactive program guide (col. 4, lines 13-23; col. 5, lines 5-14; col. 8, lines 4-17; col. 13, lines 46-67).

Regarding claim 2, the further claimed feature of providing interactive content with the passive video product is either met by providing on screen notifications with the real time television program being displayed (col. 14, line 50-col. 15, line 12) or the viewer presses the "Guide" key on the viewer's remote control device when the viewer watches a full screen display of the television video programming to display EPG grid guide, Ad windows with the television video programming (figure 1 and col. 6, line 64-col. 7, line 30).

Regarding claim 3, the additional claimed feature for the interactive content comprises an alert icon is met by the interactive icons on the interactive program guide (figure 1) or icon of the on screen notifications (col. 15, lines 5-22); the additional claimed feature of providing a merchandising opportunity to the user in response to the user selecting of the alert icon is met by providing information of the television program or merchandise

in response to user selecting of the interactive icon (col. 14, line 50-col. 15, line 22; col. 15, lines 47-50; figures 1, 5,6).

Regarding claim 4, the additional claimed feature of the alert icon is overlaid onto the passive video product is met by the interactive program guide or the on screen notification icon is overlaid onto full screen television program (col. 3, lines 55-61; col. 7, lines 20-30; col. 15, lines 4-20).

Regarding claim 5, the additional feature of the interactive content comprises a television program listing is met by television interactive program guide (figure 1); the further claimed feature of providing additional information for the television program listing in response to the user selecting the television program listing is met by providing the entire title and detail description on the detail description area in response to user selecting a particular icon on the interactive television guide (figure 1 and col. 15, lines 52-64).

Regarding claim 6, the additional claimed feature of the interactive program application is an interactive television guide is met by interactive program guide on screen (10 – figure 1); and the further claimed feature of the branded selectable option is a branded selection menu option of the interactive television guide is met by interactive grid guide and/or interactive ads windows on the interactive program guide (figure 1).

Regarding claim 7, Alexander discloses data in the interactive program guide can be downloaded from Internet and displayed on the screen (col. 8, lines 36-64; col. 18, lines 1-67). Inherently, the interactive application is a web browser.

Regarding claim 8, the further claimed feature of providing the passive video product comprises tuning equipment associated with the user to a television channel is met by providing the television program comprises tuner associated with the viewer to a television channel (col. 7, lines 10-18; col. 30, line 60-col. 31, line 8).

Regarding claim 18, Alexander discloses a method for providing advertisements within an interactive application implemented at least in part on user equipment (figure 1) comprising:

providing branded passive programming associated with a brand to the user equipment (providing television programming/advertisement associated with CBS, advertiser, FOX, etc. to the viewer equipment –col. 6, line 65-col. 7, line 18, figure 5); displaying on the user equipment an alert icon overlaid on the currently displayed branded passive programming that indicates availability of additional information associated with the currently displayed branded passive programming (displaying on the user display screen an on screen notification/icon/title/channel, etc. overlaid the program being viewed that indicates any number of possible items of information associated with the program being viewed);

providing a user associated with the user equipment with an opportunity to select the alert icon to indicate a desire to access additional information associated with the branded passive programming (viewer selects on screen notification/icon/channel, title, etc. on the screen display to indicate a desire to access additional information associated with the program – col. 17, lines 48-67, col. 18, lines 33-67);

providing an interactive display on the user equipment in response to the user selection, wherein the display comprises an advertisement associated with the brand of the currently displayed branded passive programming (providing an interactive display such as web site for additional information of advertiser/provider, in response to user selection, the web site comprises an advertisement (i.e. video clip, detail description, etc.) associated with the brand of program currently displayed - col. 17, lines 48-67; col. 18, lines 33-67).

Regarding claim 19, the further claimed feature of the passive programming is a television program, a commercial, a pay per view program, or a passive video product segment is met by a television program displayed on PIP window or advertisement displayed in ads windows 14, 16 – figure 1).

Regarding claim 20, the further claimed feature of retrieving the advertisement is met by retrieving advertisement in ad window, or on screen notification, or retrieving additional information of a program (col. 17, line 50-col. 18, line 67).

Regarding claim 21, the further claimed feature of retrieving an advertisement according to a schedule is met by retrieving on screen notification a certain amount of time before the program begin or retrieving particular advertisement according to particular program displayed on the screen (col. 25, line 50-col. 26, line 60; col. 33, lines 26-65).

Regarding claim 22, the further claimed feature of retrieving an advertisement according to a real time flag is met by retrieving among other things, additional information about the particular event involving the astronauts according to an event involving astronauts described by news broadcaster while watching the news program (col. 18, lines 54-67).

Regarding claim 23, the additional claimed limitations correspond to the additional limitations as claimed in claims 7, and are analyzed as discussed with respect to the rejection of claim 7.

Regarding claim 24, Alexander further discloses the interactive application is an interactive television program guide (interactive program guide – figure 1); and providing the advertisement in the interactive application display comprises providing the advertisement as a panel advertisement (Ad windows or Grid guide) in the interactive television program guide (interactive program guide) – figure 1.

Regarding claim 25, Alexander discloses a method for providing advertisement space to advertisers across television related products (figure 1) comprising:

allocating advertisement time for an advertiser in an interactive application and during a passive program, wherein the advertisement time is allocated across the interactive application and the passive program such that an advertisement for the advertiser is provided within a display of the interactive application to coincide with the advertisement time allocated to the same advertiser in the passive program (i.e. allocate channel ad slots for advertiser in the television displayed and during a particular program, wherein the advertisement is allocated across the display screen, i.e., panel ad pair 1 with channels 1-8, panel ad pair 2 with channels 9-16, etc. and the advertisement displayed with the program based on ad channel slot - figure 1 and col. 19, line 61-col. 21, line 25; col. 22, lines 20-33; col. 26, line 57-col. 27, line 20; col. 32, line 25-col. 33, line 43).

Regarding claim 26, Alexander further teaches providing a user with an opportunity to select the advertisement in the interactive application (viewer selects a program title or ad window in the interactive program guide – figure 1, col. 15, lines 47-63; col. 17, line 40-col. 18, line 67); providing the passive program in response to the user selecting the advertisement in the interactive application (providing television program and/or product in response to viewer selecting a program title or ad window in the interactive program guide – figure 1, col. 4, lines 18-20).

Regarding claims 27-28, the claimed limitations correspond to the claimed limitations in claims 19, 23 respectively, and are analyzed as discussed with respect to the rejection of claims 19-23.

Regarding claims 29-36, 46-56, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 1-8, 18-28, and are analyzed as discussed with respect to the rejection of claims 1-8, 18-28.

Regarding claims 57-64, 74-84, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 1-8, 18-28, and are analyzed as discussed with respect to the rejection of claims 1-8, 18-28.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gordon et al. (US 6,754,905) discloses data structure and method for providing an interactive program guide.

Lawler et al. (US 5,585,838) discloses program time guide.

Dunn (US 5,945,987) discloses interactive entertainment network system and method for providing short sets of preview video trailers.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH  
October 11, 2005



CHRISTOPHER GRANT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600